

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	John Sidney Stewart	Examiner:	Annan Q. Shang
Serial No.	10/055,759	Group Art Unit:	2623
Filed:	January 23, 2002	Docket No.	PU020022
Title:	MULTIMEDIA ON DEMAND FOR USE IN A NEAR ON DEMAND ENVIRONMENT		
Customer No.:	24498		

APPELLANT'S BRIEF

MAIL STOP: APPEAL BRIEF - PATENTS

Commissioner for Patents

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Sir:

This brief is in furtherance of the Notice of Appeal in this case, timely filed on April 29, 2008. Applicant hereby appeals to the Board from the decision of the Examiner in the Final Office Action dated January 2, 2008 that rejected the pending claims 1-20. Accordingly, claims 1-20 are now on appeal. This Brief is accompanied by authorization to charge the requisite fee set forth in 37 C.F.R. § 41.20(b)(2) in the amount of \$510.00 to Deposit Account 07-0832. No oral hearing is requested.

I. REAL PARTY IN INTEREST

The real party in interest in this appeal is Thomson Licensing Inc., the assignee of record.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

The status of claims of all the claims in the application, claims 1-20, is set forth in Appendix A of this brief. Claims 1-20 are rejected under 35 U.S.C. § 112, claims 1-6, 8, 10-18, and 20 are rejected under 35 U.S.C. § 102(e), and claims 7, 9, and 19, are rejected under U.S.C. § 103(a) in the Final Office Action dated January 2, 2008.

IV. STATUS OF AMENDMENTS

No amendments to the claims have been filed subsequent to the Final Office Action dated January 2, 2008.

V. SUMMARY OF CLAIMED SUBJECT MATTER

In one aspect, a process provides multimedia presentations on demand in a near on demand environment. See Specification, para. [0006] (“[m]ultimedia on demand services in accordance with the inventive arrangements provide multimedia on demand in a near multimedia on demand environment”). The process pre-records a beginning segment of a multimedia presentation which is broadcasted over at least two channels. See Specification para. [0031] (“FIG. 3A illustrates an exemplary timeline of a broadcasting schedule that has multiple broadcasts of a multimedia presentation on a plurality of channels.”), para. [0032] (“[a]lso shown in FIG. 3A is a beginning segment 310 for Broadcast 1, which is recorded from channel 1 in anticipation of future use.”); FIG. 3A. Further, the multimedia presentation is broadcasted over the at least two channels with a

periodic interval being a difference of time between the start of the broadcast of the multimedia presentation over a first channel and a second different channel. See Specification, para. [0031] (“[f]urthermore, broadcasts of a particular media presentation are commenced with a time interval ‘1_’ between the start of each broadcast.”); FIG. 3A. The beginning segment has a time duration at least as long as the periodic interval. See Specification, para. [0007] (“[t]he periodic interval between broadcasts should be less than or equal to the length of the beginning segments.”), para. [0032] (“[t]he length of beginning segment 310 is equal to the time interval ‘L’”); Abstract (“[e]ach of the beginning segments are at least as long as the periodic interval.”).

The process receives a user request for performance of the multimedia presentation. See Specification, para. [0039] (“... the broadcast system controller 102 can continually monitor the broadcaster communication unit 108 for user requests. When a request to view a program presentation is received, an authorization code can be generated ...”). In response to the user request, the process commences playback of the beginning segment corresponding to the multimedia presentation. See Specification, para. [0039] (“[t]he authorization code can enable the subscriber to begin a performance of the user selected multimedia presentation or program, by initiating playback (PM) of the corresponding beginning segment, for example 310, which was pre-recorded on the subscriber multimedia system 200.”); FIG. 4. Further, the beginning segment is received unscrambled. See Specification, para. [0035] (“[a]dditionally, the beginning segments can be transmitted in an unscrambled format to facilitate recording of them on the multimedia recorders 210 in the subscriber multimedia systems 200.”).

In response to the user request, the process also commences recording of the multimedia presentation for which a broadcast has already begun. See Specification, para. [0049] (“[r]eferring to step 506 of FIG. 5, concurrent with the playback (Pb1) of beginning segment 310, the multimedia system controller 202 can communicate to the multimedia recorder 210 to receive from the broadcast receiver 204 and begin recording (Wr) the most recent and currently occurring broadcast of the user selected programming (Bc2) for which

broadcasting had begun prior to time T_{START} .”); FIG. 5. The rest of the multimedia presentation, which is not the beginning segment of the multimedia presentation, is received scrambled. See Specification, para. [0035], which distinguishes the beginning segments from the non-beginning segments on the basis of scrambling (“[a]dditionally, the beginning segments can be transmitted in an unscrambled format to facilitate recording of them on the multimedia recorders 210 in the subscriber multimedia systems 200.”).

In response to the user request, the process also switches from the playback of the beginning segment to playback of the recording of the rest of the multimedia presentation when program content of the beginning segment corresponds with program content of the rest of the multimedia presentation contained in the recording such that the rest of the recorded multimedia presentation is unscrambled during the playback of the beginning segment or the recording of the multimedia presentation for which a broadcast has already begun. See Specification, para. [0051] (“[r]eferring to step 508 of FIG. 5, within the period of the transition time 312 the multimedia system controller 202 can seamlessly switch program playback from the pre-recorded beginning segment 310 to the identical program point in record 315 captured from the most recent broadcast for which broadcasting is in progress, Broadcast 2 in our example.”); FIG. 5.

In another aspect, a system provides multimedia presentations on demand in a near on demand environment. See Specification, para. [0006] (“[m]ultimedia on demand services in accordance with the inventive arrangements provide multimedia on demand in a near multimedia on demand environment”). The system has a multimedia recorder that is configured to pre-record a beginning segment of a multimedia presentation which is broadcasted over at least two channels. See Specification para. [0028] (“[t]he subscriber multimedia system 200 can also include a multimedia recorder 210.”), para. [0031] (“FIG. 3A illustrates an exemplary timeline of a broadcasting schedule that has multiple broadcasts of a multimedia presentation on a plurality of channels.”); para. [0032] (“[a]lso shown in FIG. 3A is a beginning segment 310 for Broadcast 1, which is recorded from channel 1 in anticipation of future use.”); FIG. 3A. Further, the multimedia presentation is

broadcasted over the at least two channels at a periodic interval being a difference of time between the start of the broadcast of the multimedia presentation over a first channel and a second different channel. See Specification, para. [0031] (“[f]urthermore, broadcasts of a particular media presentation are commenced with a time interval ‘1₋’ between the start of each broadcast.”); FIG. 3A. The beginning segment has a time duration at least as long as the periodic interval. See Specification, para. [0007] (“[t]he periodic interval between broadcasts should be less than or equal to the length of the beginning segments.”), para. [0032] (“[t]he length of beginning segment 310 is equal to the time interval ‘L’”); Abstract (“[e]ach of the beginning segments are at least as long as the periodic interval.”).

The system also has a multimedia system controller that operatively communicates with the multimedia recorder. See Specification, para. [0024] (“[t]he subscriber multimedia system 200 includes a multimedia system controller 202 that can communicate with other system components for providing a multimedia presentation.”), para. [0048] (“[a]t step 504, the multimedia system controller 202 can begin the program presentation by communicating to the multimedia recorder 210 to read (Pb) the pre-recorded beginning segment 310 from the storage medium ...”); FIG. 2 (bidirectional arrow between the multimedia system controller 202 and the multimedia recorder 210). The multimedia recorder is caused by the multimedia system controller to commence playback the beginning segment corresponding to the multimedia presentation. See Specification, para. [0039] (“[t]he authorization code can enable the subscriber to begin a performance of the user selected multimedia presentation or program, by initiating playback (PM) of the corresponding beginning segment, for example 310, which was pre-recorded on the subscriber multimedia system 200.”); FIG. 4. Further, the beginning segment is received unscrambled. See Specification, para. [0035] (“[a]dditionally, the beginning segments can be transmitted in an unscrambled format to facilitate recording of them on the multimedia recorders 210 in the subscriber multimedia systems 200.”).

The multimedia recorder is also caused by the multimedia system controller to commence recording of the multimedia presentation for which a broadcast has already

begun. See Specification, para. [0049] (“[r]eferring to step 506 of FIG. 5, concurrent with the playback (Pb1) of beginning segment 310, the multimedia system controller 202 can communicate to the multimedia recoder 210 to receive from the broadcast receiver 204 and begin recording (Wr) the most recent and currently occurring broadcast of the user selected programming (Bc2) for which broadcasting had begun prior to time T_{START} .”); FIG. 5. The rest of the multimedia presentation, which is not the beginning segment of the multimedia presentation, is received scrambled. See Specification, para. [0035], which distinguishes the beginning segments from the non-beginning segments on the basis of scrambling (“[a]dditionally, the beginning segments can be transmitted in an unscrambled format to facilitate recording of them on the multimedia recorders 210 in the subscriber multimedia systems 200.”)

The multimedia recorder is also caused by the multimedia system controller to switch from the playback of the beginning segment to playback of the recorded portion of the rest of the multimedia presentation when the playback program content of the beginning segment correlates to playback program content of the rest of the multimedia presentation contained in the recorded portion such that the rest of the recorded multimedia presentation is unscrambled during the playback of the beginning segment or the recording of the multimedia presentation for which a broadcast has already begun. See Specification, para. [0051] (“[r]eferring to step 508 of FIG. 5, within the period of the transition time 312 the multimedia system controller 202 can seamlessly switch program playback from the pre-recorded beginning segment 310 to the identical program point in record 315 captured from the most recent broadcast for which broadcasting is in progress, Broadcast 2 in our example.”); FIG. 5.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-20 are rejected under 35 U.S.C. § 112. Further, claims 1-6, 8, 10-18, and 20 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,622,305 to Willard (“Willard”). In addition, claims 7 is rejected under 35 U.S.C. §103(a) as being obvious over Willard in view of U.S. Patent No. 6,002,694 to Yoshizawa et al. (“Yoshizawa”). Claims 9 and 19 are rejected under 35 U.S.C. §103(a) as being obvious over Willard in view of U.S. Patent No. 6,281,940 to Sciammarella (“Sciammarella”).

VII. ARGUMENT**REJECTION OF CLAIMS 1-20 UNDER 35 U.S.C. § 112**

The Final Office Action rejected claims 1-20 under 35 U.S.C. § 112, paragraph 1. The basis for this rejection is unclear. Although the Office Action states that the rejection is with respect to the written description requirement, it later states that the claim language is unclear. Accordingly, Appellant shall address both the written description issue and the clarity issue.

With respect to the written description requirement, adequate support for “pre-recording a beginning segment of a multimedia presentation which is broadcasted over at least two channels” can be found in the Specification. In particular, paragraph [0031] of the Specification explains that “FIG. 3A illustrates an exemplary timeline of a broadcasting schedule that has multiple broadcasts of a multimedia presentation on a plurality of channels.” Accordingly, there is a multimedia presentation, and multiple broadcasts of that multimedia presentation occur on different channels. Further, paragraph [0032] of the Specification explains that “[a]lso shown in FIG. 3A is a beginning segment 310 for Broadcast 1, which is recorded from channel 1 in anticipation of future use.” Therefore, a beginning segment of one of the broadcasts is recorded so that the beginning segment may be utilized either with the broadcast that it was recorded from or with another broadcast from another channel.

With respect to clarity, the Office Action states that “[i]t is unclear as to the broadcasting of ‘a beginning segment...over at least two channels...’” See Office Action, page 2. The Office Action appears to be questioning the clarity of whether (i) the beginning segment or (ii) the multimedia presentation is broadcasted over at least two channels. The language makes clear that a beginning segment of a multimedia presentation is pre-recorded. Further, the language makes clear that multiple broadcasts of the multimedia presentation occur on different channels. Accordingly, the language is clear in reciting that the multimedia presentation, not the beginning segment, is broadcasted over at least two channels. In addition, when the claims are read in light of the Specification (e.g., paragraph [0032] of the Specification explains that “[a]lso shown in FIG. 3A is a beginning segment 310 for Broadcast 1, which is recorded from channel 1 in anticipation of future use.”), the meaning of the claim language is clear.

Appellant notes that although the claim language recites that the multimedia presentation is broadcasted over at least two channels, this does not prevent the beginning segment from also being broadcasted over at least two channels. In other words, the claim language makes clear that the multimedia presentation has to be broadcasted over at least two channels, and is silent on the quantity of channels for broadcasting of the beginning segment.

Accordingly, Appellant submits that the rejections of claims 1-20 should be withdrawn.

REJECTION OF CLAIMS 1-6, 8, 10-18, and 20 UNDER 35 U.S.C. § 102(e)

The Final Office Action rejected claims 1-6, 8, 10-18, and 20 under 35 U.S.C. § 102(e) as being anticipated by Willard. However, as will be discussed, Willard does not provide a teaching for these claims.

Unscrambled Beginning Segment and Scrambled Non-beginning Segment

With respect to independent claim 1, a distinction is made between a beginning segment and a non-beginning segment on the basis of scrambling. A beginning segment is

received unscrambled whereas a non-beginning segment is received scrambled. The Specification explains the reason for this distinction by stating that “[f]urthermore, the multimedia broadcasting unit can transmit the beginning segments in an unscrambled format to make recording of the beginning segments a simpler process.” See Specification, para. [0010].

Willard makes a single mention in the text of any type of descrambling by stating that “[t]he selecting circuit 54 is connected to a descrambler 58 which provides signals to a video decoder 62 and audio decoder 64 which deliver audio and video output 68 to the television.” See Willard, col. 4, lines 8-11. No further explanation of the descrambler 58 in Fig. 3 of Willard is provided. A general teaching of descrambling by Willard does not provide a teaching that one piece of content is received in an unscrambled format while another piece of content is received in a scrambled format let alone a teaching that a beginning segment is received in an unscrambled format while a non-beginning segment is received in a scrambled format.

Further, the Office Action even admits that Willard does not teach receiving the beginning segment in an unscrambled format:

“Once a user selects a program to view from the menu, the Receiver receives a key or code for descrambling the beginning segment to enable viewing of the rest of the program. Note that once the beginning segments [sic] is descramble [sic] the processor (70) of the receiver, ...” See Final Office Action, page 3.

If Willard descrambles a beginning segment, as stated by the Final Office Action, then Willard does not teach “said beginning segment is received unscrambled” as recited by claim 1.

Pre-recording a beginning segment of a multimedia presentation

Although Willard does not make a distinction between receiving unscrambled or scrambled content, Willard makes a clear distinction between what is recorded and what is not recorded. For example, Willard explains that “[t]he method generally includes

displaying a first segment of the program as it is broadcast at a first time interval and recording a second segment of the program at the first time interval if the second segment is not scheduled for broadcast at a second time interval.” See Willard, col. 2, lines 6-11. An example of an implementation for this method is Table 2 of Willard and the corresponding text. See Willard, Table 2, col. 5, lines 37-67. Channel 1 displays the beginning segment ‘S1’ during all the time intervals. See Willard, Table 2, col. 5, lines 37-67. Accordingly, as stated above, the first segment is displayed as it is broadcasted to the user. The system then automatically switches to another channel, e.g., Channel 2, at the next time interval to display the second segment ‘S2’. See Willard, Table 2, col. 5, lines 37-67. However, if S2 is scheduled to be displayed during the next time interval, the system has to pre-record S2 on Channel 2 while the viewer is viewing S1 on Channel 1 so that S2 can be played back at the next time interval. See Willard, Table 2, col. 5, lines 37-67. Therefore, Willard teaches a **live viewing of the beginning segment, not a pre-recording of the beginning segment**. The **pre-recording** in Willard is only potentially utilized, depending on the time interval, for a **non-beginning segment**. In the other example provided by Willard in Table 1, the system also automatically switches to the channel displaying S1 so that the viewer views the beginning segment live and potentially subsequent segments that are recorded. See Willard, Table 1; col. 4, lines 58-67. Therefore, Willard does not teach “pre-recording a beginning segment of a multimedia presentation” as recited by claim 1.

The Final Office Action states that “Examiner notes applicant’s arguments, however, do [sic] to the above 112 rejection, William [sic] references [sic] meets the claim limitation.” See Final Office Action, page 2. Appellant assumes that the Final Office Action did not consider the arguments with respect to “pre-recording a beginning segment of a multimedia presentation” in the previously filed response on September 20, 2007 because of the contention that the claim language was unclear. Irrespective of whether (i) the beginning segment or (ii) the multimedia presentation is broadcasted over at least two

channels (which has been explained above), the beginning segment of claim 1 is clearly pre-recorded. Willard does not provide a teaching of pre-recording a beginning segment.

Accordingly, Appellant submits that the rejection of independent claim 1 should be withdrawn. Further, the rejections of claims 2-6, 8, and 10 should also be withdrawn as these claims depend from claim 1.

Appellant also submits that the rejection of independent claim 11 should be withdrawn for the same reasons discussed with respect to independent claim 1. Further, the rejections of claims 12-18 and 20 should also be withdrawn as these claims depend from claim 11.

REJECTION OF CLAIM 7 UNDER 35 U.S.C. § 103(a)

The Final Office Action rejected claim 7 under 35 U.S.C. §103(a) as being obvious over Willard in view of Yoshizawa. Claim 7 depends from independent claim 1. Accordingly, the rejection of this claim should be withdrawn for the reasons discussed with respect to claim 1.

REJECTION OF CLAIMS 9 AND 19 UNDER 35 U.S.C. § 103(a)

The Final Office Action rejected claims 9 and 19 under 35 U.S.C. §103(a) as being obvious over Willard in view of Sciammarella. Claim 9 depends from independent claim 1. Accordingly, the rejection of this claim should be withdrawn for the reasons discussed with respect to claim 1.

Further, claim 19 depends from independent claim 11. Accordingly, the rejection of this claim should be withdrawn for the reasons discussed with respect to claim 11.

VIII. CLAIMS APPENDIX

A complete listing of the claims involved in this appeal is attached hereto as Appendix A.

IX. EVIDENCE APPENDIX

Appellant does not submit any additional evidence and, therefore, an Appendix B is hereby attached indicating “none.”

X. RELATED PROCEEDINGS APPENDIX

Appellant states that there are no relevant related proceedings and, an Appendix C is hereby attached indicating “none.”

XI. CONCLUSION

The Examiner has not shown in the cited prior art where one may find support for rejections of the pending claims on Appeal. There is simply no disclosure/support pointed out by the Examiner that is even relevant to the features positively recited in claims 1-20. Appellant contends that the rejections are traversed and overcome, in light of the arguments presented above.

The allowance of all claims on Appeal is therefore respectfully requested.

Respectfully submitted,

Date: June 30, 2008

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Attachments:

- Appendix A: Claims on Appeal
- Appendix B: Evidence
- Appendix C: Related Proceedings

APPENDIX A

CLAIMS ON APPEAL

The following is a listing of all claims, pending or canceled, incorporating all elements and revisions to date. All non-canceled claims are on appeal, canceled claims being canceled without prejudice or disclaimer.

1. (Previously Presented) A method for providing multimedia presentations on demand in a near on demand environment, comprising:

pre-recording a beginning segment of a multimedia presentation which is broadcasted over at least two channels with a periodic interval being a difference of time between the start of the broadcast of said multimedia presentation over a first channel and a second different channel, said beginning segment having a time duration at least as long as said periodic interval; and,

responsive to a user request for performance of said multimedia presentation:

- a) commencing playback of said beginning segment corresponding to said multimedia presentation, wherein said beginning segment is received unscrambled;
- b) commencing recording of said multimedia presentation for which a broadcast has already begun, wherein the rest of said multimedia presentation, which is not said beginning segment of said multimedia presentation, is received scrambled; and,
- c) switching from said playback of said beginning segment to playback of said recording of said rest of said multimedia presentation when program content of said beginning segment corresponds with program content of said rest of said multimedia presentation contained in said recording, wherein the rest of said recorded multimedia

presentations is unscrambled during the performance of at least one of step b and step c.

2. (Previously Presented) The method of claim 1, further comprising pausing said multimedia presentation by stopping said playback of at least one of said beginning segment and said recording of the rest of said multimedia presentation while continuing to record the rest of said multimedia presentation.

3. (Previously Presented) The method of claim 1, further comprising at least one of rewinding and fast forwarding said playback of said recording of the rest of said multimedia presentations while continuing to record the rest of said multimedia presentation.

4. (Previously Presented) The method of claim 1, wherein said beginning segment and the rest of said multimedia presentation are recorded on a common storage medium.

5. (Previously Presented) The method of claim 4, wherein said common storage medium is selected from a group consisting of a magnetic disk medium, an optical disk medium and an electronic storage medium.

6. (Previously Presented) The method of claim 5, further comprising alternately reading from said common storage medium for said playback of said pre-recorded beginning segment and recording of the rest of said multimedia presentation on said common storage medium.

7. (Previously Presented) The method of claim 4, further comprising inhibiting playback of said recording of the rest of said multimedia presentation after a presentation of said selected multimedia presentation is completed.

8. (Original) The method of claim 1, further comprising the step of automatically pre-recording beginning segments upon initial activation of a multimedia system.

9. (Previously Presented) The method of claim 1, further comprising, responsive to at least one of a user request and an automatic signal, periodically updating beginning segments with new unscrambled beginning segments corresponding to subsequent multimedia presentations.

10. (Original) The method of claim 1, wherein said multimedia presentations are presented on one of the group consisting of a television display, a video display, a computer display, a personal digital assistant, a home theater system and an audio system.

11. (Previously Presented) A system for providing multimedia presentations on demand in a near on demand environment, comprising:

a multimedia recorder configured for pre-recording a beginning segment of a multimedia presentation which is broadcasted over at least two channels at a periodic interval begin a difference of time between the start of the broadcast of said multimedia presentation over a first channel and a second different channel, said beginning segment having a time duration at least as long as said periodic interval; and,

a multimedia system controller operatively communicating with said multimedia recorder and causing said multimedia recorder to:

a) commence playback of said beginning segment corresponding to said multimedia presentation, wherein said beginning segment is received unscrambled;

b) commence recording of said multimedia presentation for which a broadcast has already begun, wherein the rest of said multimedia presentation, which is

not said beginning segment of said multimedia presentation, is received scrambled; and,

c) to switch from said playback of said beginning segment to playback of said recorded portion of said rest of said multimedia presentation when said playback program content of said beginning segment correlates to playback program content of said rest of said multimedia presentation contained in said recorded portion, wherein said rest of said recorded multimedia presentation is unscrambled during the performance of at least one of step b and step c.

12. (Original) The system of claim 11, further comprising a user interface that receives user commands and communicates said user commands to said multimedia system controller.

13. (Original) The system of claim 12, wherein said user interface comprises a menu of said multimedia presentations available to a user from which said user can select a multimedia presentation for performance.

14. (Previously Presented) The system of claim 12, further comprising a control responsive to a user input that when activated pauses said multimedia presentation by stopping said playback of at least one of said beginning segment and said rest of said recorded multimedia presentation while continuing to record said rest of said multimedia presentation.

15. (Original) The system of claim 12, further comprising a trick mode control responsive to a user input for causing a trick mode operation of said multimedia recorder, said trick mode comprising at least one of: slow motion; fast motion; fast forward; and rewind.

16. (Previously Presented) The system of claim 11, wherein said multimedia recorder records said beginning segment and said rest of said multimedia presentation are recorded on a common storage medium.

17. (Original) The system of claim 16, wherein said common storage medium is selected from a group consisting of a magnetic disk medium, an optical disk medium and an electronic storage medium.

18. (Original) The system of claim 11, wherein said multimedia system controller comprises an automatic recording function that causes said multimedia recorder to record said beginning segments upon initial activation of said system.

19. (Previously Presented) The system of claim 11, wherein said multimedia system controller comprises an automatic update function that periodically updates ones of said beginning segments with a plurality of new unscrambled beginning segments corresponding to a subsequent set of multimedia presentations.

20. (Original) The system of claim 11, further comprising a receiver for receiving broadcasts of said selected one of said multimedia presentations.

APPENDIX B

EVIDENCE

None.

APPENDIX C

RELATED PROCEEDINGS

None.